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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,991	06/15/2001	Patrick Christian Michael Boucousis	3133.00003	7804

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EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary**Application No.**

09/881,991

Applicant(s)BOUCOUSIS, PATRICK
CHRISTIAN MICHAEL**Examiner**

Thein Marissa

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 15, 2006 has been entered.

Response to Amendment

Applicant's "Request for Continued Examination" has been considered.

Applicant's response by virtue of amendment to claim 15 has not overcome the Examiner's rejection under 35 USC 101.

Applicant's response by virtue of amendment to claim 7 and 15-20 has overcome the Examiner rejection under 35 USC 112, second paragraph.

Claims 7 and 15, 17, and 20 have been amended. Claims 7 and 15-20 remain pending in this application and an action on the merits follow.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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Claim 15 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim recites "creating a fixed catalogue"; having a service provider create a catalogue of items that can be supplied by vendors that includes a finite amount of items such that if an item is not present the item catalogue it cannot be listed as being available for supply by a vendor"; and "subsequently, automatically providing contact information for vendors of those items where the seeker has requested such information and simultaneously automatically providing contact information for the seeker to the vendors...." which is not supported in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites "physical occurrence" which is unclear. Does applicant mean that the item is offered by the vendor or is available or there is an entry in the listing catalogue? Is there a step or rule or criteria for determining how an item is listed into the catalogue? For examination, purposes Examiner will interpret the recitation its broadest reasonable interpretation.

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Claims 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites "having a service provider create a catalogue of items that can be supplied by vendors that includes a finite amount of items such that if an item is not present in the item catalogue it cannot be listed as being available for supply by a vendor" and "having registered vendors indicate that they are able to supply items by listing the physical occurrence of items in an item catalogue such that if an item is not present in the item catalogue a vendor cannot list an occurrence of such items in the listing catalogue" are unclear and confusing. How can a vendor supply an item and then if an item is not present in the catalogue it cannot be listed is confusing. Is there a step or rule or criteria for determining how an item is listed into the catalogue? For examination, purposes Examiner will interpret the recitation its broadest reasonable interpretation.

Claims 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 is not sufficiently precise due to the combining of two different statutory classes of invention in a single claim. The preamble of the claim refers to a application, but the body of the claim discusses the specifics of the system (an Internet accessible graphical interface) and subsequently the claim then deals with the specifics of a computer readable medium comprising a program or executable instructions (software module (program per se)....etc.). If applicant is trying to claim a program, Examiner

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suggest to rewrite the claim as "A computer readable medium containing executable instructions which, when executed in a computer, cause the computer to perform method steps...".

Claims 18-20 are rejected as being dependent on claim 17 as discussed above.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17-20 are rejected under 35 U.S.C. §101 because the claimed invention is directed to a non statutory subject matter.

35 U.S.C. §101 requires that in order to be patentable the invention must be a "new and useful process, machine, manufacture or composition of matter or new and useful improvement thereof" (emphasis added). Applicant's claims mentioned above are intended to embrace or overlap two different statutory classes of invention as set forth in 35 U.S.C. §101. Furthermore, the claims does not recite a statutory class being method, process, system or computer readable medium comprising a program or executable instructions. The claim begins by discussing an application (ex. Preamble of claim 17), the body of the claim discusses the specifics of a system (an Internet accessible graphical interface) and computer readable medium comprising a program or executable instructions (software module (program per se)....etc.). (See rejection of claims under 35 U.S.C. §112, second paragraph, for specific details regarding this issue). "A claim of this type is precluded by express language of 35 U.S.C. §101 which

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is drafted so as to set forth statutory the statutory classes of invention in the alternative only", Ex parte Lyell (17USPQ2d 1548). If applicant is trying to claim a program, Examiner suggest to rewrite the claim as "A computer readable medium containing executable instructions which, when executed in a computer, cause the computer to perform method steps...".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

As best understood, claims 7 and 15-17 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,940,807 to Purcell in view of U.S. Patent No. 6,594,633 to Broerman.

Regarding claims 15 and 17, Purcell discloses a method and an application for facilitating the exchange of information between vendors and seekers through a communication network including the steps of:

creating a fixed item catalogue (col. 3 lines 51-67; col. 4, lines 51-64)

having a service provider (host or administrator domain) create a catalogue of items that can be supplied by vendors that includes finite amount of items such that if an item is not present in the item catalogue it cannot be listed as being available for supply by a vendor (col. 4, lines 51-64; col. 6, lines 63-66; col. 9, lines 23-50);

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having registered vendors indicate that they are able to supply items by listing the physical occurrence of items in an item catalogue such that if an item is not present in the item catalogue a vendor cannot list an occurrence of such item in the listing catalogue (col. 9, lines 7-14; col. 9, lines 23-50);

having registered seekers search in the item catalog for a specific item of information, the seekers only having access to search the item catalogue and not having access to the listing catalogue nor to information about any vendor (col. 7 lines 24-29; col. 9, lines 51-col. 10, line 9);

automatically searching the listing catalogue for the physical occurrence of items matching those being searched for the by the seekers in the item catalogue and providing details of the matched items, but not details of the vendors, to the seekers (col. 7, lines 24-34; col. 10 , lines 10-23); and

subsequently, automatically providing information for vendors where the seeker has requested such information and simultaneously providing information for the seeker to the vendor (col. 6, lines 27-31).

Furthermore, Purcell further discloses the use of an Internet accessible graphical interface in communication with the electronically searchable listing via accessing and utilizing a network commonly referred to as the Internet or World Wide Web (col. 4, lines 40-50).

However, Purcell does not explicitly disclose contact information. Broerman, on the other hand, teaches contact information (col. 18, lines 56-57).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Purcell, to include the contact information, as taught by Broerman, in order for the vendor and seeker to contact each other to get more information about the item.

Regarding claim 7, Purcell discloses a software module to recognize an item which is an assembly of items in the item catalogue such that the individual items may be listed as individual items in the listing catalogue (col. 9, lines 33-50)

Regarding claim 16, Purcell also discloses wherein a vendor designates a seeker, who has been identified to the vendor, as a seeker who is to be denied future access to that vendor's item records, said searching step being further defined as excluding that vendor's items in the listing catalogue from those provided to the seeker as a result of the seeker's query (col. 4, lines 20-32).

Regarding claims 19-20, Purcell further discloses the step of aiding the vendors to enter assemblies of items by providing a software module configured to recognize an item, which is an assembly of parts (col. 3, lines 57-64; col. 9, lines 33-50); and presenting vendors with a series of suggestion of possible terms that vendors can use to describe items listed in the listing catalogue (col. 9, lines 36-50).

As best understood, claim 18 is are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,940,807 to Purcell and U.S. Patent No. 6,594,633 to Broerman as applied to claim 15 above, and further in view of U.S. Patent No. 5,319,542 to King, Jr. et al. Purcell and Broerman substantially discloses the claimed invention, however, the combination does not explicitly disclose allow a

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vendor to designate that the vendor's listing are not to be viewed by seekers specified by the vendor.

King, on the other hand, teaches the allow the vendor to designate that the vendor's listing are not to be viewed by seekers specified by the vendor (col. 5, lines 1-8).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination to include allow a vendor to designate that the vendor's listing are not to be viewed by seekers specified by the vendor, as taught by King, in order for the supplier (vendor) to control customer access to their database (King, col. 5, lines 7-8).

Response to Arguments

Applicant's arguments with respect to claims 7, 15-20 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's remark that "the prior art patents cited in the outstanding Office Action relate to on-line transactions not a method of exchanging contact information between two parties based upon the availability of a specific item. There is no motivation for those of skill in the art.....".

Examiner notes that the combination of Purcell and Broerman teaches the "method of exchanging contact information between two parties based upon the availability of a specific item". Purcell discloses the exchange of information between two parties based upon the availability of a specific item. Purcell discloses a system, which uses a filtering process for compiling a listing to total available merchandise for

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the member purchasers (col. 6, lines 25-27). Furthermore, Purcell discloses direct communication can be facilitated between a buyer and sellers by accommodating the delivery of messages (col. 6, lines 27-29). The Examiner then turns to Broerman to disclose the exchange of contact information. Broerman teaches communicating of the contact information for one of the seller and buyer to the other of the seller and buyer is done (col. 18, lines 56-57) over a network (abstract). The motivation to combine is to provide the vendor and seeker to contact each other to get more information about the item.

Conclusion

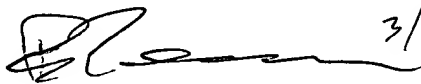
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thein Marissa whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mtot
March 17, 2007

 3/18/07
F. RYAN ZEENDER
SUPERVISORY PATENT EXAMINER